

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF INDIANA  
FORT WAYNE DIVISION**

MICHELLE L. STOCKBERGER,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 1:20-cv-00074-
	)	
VISION33 INC.,	)	
	)	
Defendant.	)	

**NOTICE OF REMOVAL**

Defendant Vision33 Inc. (“Vision33” or “Defendant”) notices the removal of this action under 28 U.S.C. §§ 1331, 1441, and 1446 to the United States District Court for the Northern District of Indiana, and as grounds therefore states:

***I. Timeliness of Removal***

1. On September 16, 2019, Plaintiff, Michelle L. Stockberger, (“Plaintiff”) filed a civil action against Defendant in the Steuben County Superior Court, Cause No. 76C01-1909-CT-000461. Copies of all process, pleadings, and orders served upon Defendant in this action are attached as **Exhibit 1**, as required under 28 U.S.C. § 1446(a).

2. On or after January 21, 2020, Plaintiff served on Defendant a “Summons, Appearance by Attorney in Civil Case” and copy of the “Complaint.”

3. Accordingly, Defendant is timely filing this Notice of Removal within thirty (30) days after service of process, as required by 28 U.S.C. § 1446(b).

***II. Venue***

4. The Steuben County Superior Court is located within the Fort Wayne Division of the Northern District of the State of Indiana. 28 U.S.C. § 94. Therefore, venue is proper in this

Court because it is the “district and division embracing the place where such action is pending.” 28 U.S.C. § 1441(a).

### ***III. Basis for Removal: Federal Question and Diversity Jurisdiction***

5. This action is properly removable under 28 U.S.C. § 1441(a), because this Court has original jurisdiction under 28 U.S.C. § 1331, which provides “The district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States.” Plaintiff’s Complaint alleges Defendant violated the Americans with Disabilities Act, 42 U.S.C. § 12111, *et seq.* (“ADA”). By asserting a claim under the ADA, Plaintiff’s Complaint asserts a federal question under 28 U.S.C. § 1331. Accordingly, this case is properly removable under 28 U.S.C. § 1441(a).

6. This action is also removable to this Court under 28 U.S.C. § 1441(a), because this Court has original jurisdiction under 28 U.S.C. § 1332(a), as “the matter in controversy exceeds the sum or value of \$75,000, exclusive of interests and costs, and is between... citizens of different States...” Plaintiff is a citizen of Indiana. Defendant is a citizen of Delaware and California. In light of the Plaintiff’s compensation where she was discharged from employment and her request for back pay, compensatory and punitive damages, the amount in controversy exceeds \$75,000 exclusive of interests and costs. Hence, this case is properly removable under 28 U.S.C. § 1441(a).

### ***IV. Conclusion***

7. In accordance with 28 U.S.C. § 1466, copies of this Notice of Removal will be promptly served upon counsel for Plaintiff and filed with the Clerk of the Steuben County Superior Court. A copy of Defendant’s notice of filing to the state court is attached as **Exhibit 2**.

8. By removing this matter, Defendant does not waive or intend to waive any defense, including but not limited to insufficiency of process and insufficiency of service of process.

WHEREFORE, Defendant Vision33 Inc., respectfully requests this Court take jurisdiction of this action and issue all necessary orders and process to remove it from the Steuben County Superior Court to the United States District Court for the Northern District of Indiana.

Respectfully submitted,

OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C.

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Attorneys for Defendant Vision33 Inc.

**CERTIFICATE OF SERVICE**

I certify that on February 12, 2020, a copy of the foregoing was filed electronically. Notice of this filing will be served on the below counsel of record by U.S. first-class mail, postage prepaid:

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